

AMENDED IN SENATE MARCH 25, 2011

**SENATE BILL**

**No. 356**

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**Introduced by Senator Blakeslee**

February 15, 2011

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An act to ~~amend Section 4512 of~~ *add Section 5080.42 to the Public Resources Code, relating to forestry state parks.*

LEGISLATIVE COUNSEL'S DIGEST

SB 356, as amended, Blakeslee. ~~Forest practices.~~ *State parks: local operating agreements.*

*Existing law authorizes the Department of Parks and Recreation to enter into agreements with any agency of the United States or any city, county, district, or other public agency for the care, maintenance, administration, and control by a party to the agreement, of lands under the jurisdiction of any party to the agreement for purposes of the state park system. Existing law prohibits an operating agreement to be entered into or amended, unless, among other things, the Legislature has reviewed the lease or agreement, or amendment, as part of the annual budget process.*

*This bill would require the department, if it proposes to close a unit of the state park system, to notify the county or city in which the unit is located. Pursuant to procedures specified in the bill, a county or city would have the opportunity to take over operations and maintenance of the unit of the state park system. The bill would require the department to enter into an agreement with a county or city that notifies the department of its intention to take over the operation and maintenance of a unit of the state park system in response to the department's notice. The bill would require the agreement to include certain provisions, including a provision that the use of existing local*

*government staff, volunteers, or cooperating associations are exempt from state prevailing wage requirements. The bill would also require the agreement to include the provision that the length of the term of the agreement be not less than one year and not longer than 5 years, with an option to renew upon the conclusion of the agreement.*

~~The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted for the timber operations to the Department of Forestry and Fire Protection, and approved. The act makes certain findings and declarations including that the forest resources and timberlands of the state are among the most valuable of the natural resources of the state.~~

~~This bill would make technical, nonsubstantive changes to the act.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 5080.42 is added to the Public Resources  
2     Code, to read:  
3     5080.42. (a) Notwithstanding this article, a city or county  
4     shall have the opportunity to provide for the operation and  
5     maintenance of a unit of the state park system, pursuant to this  
6     section, that the state proposes to close.  
7     (b) (1) If the state proposes to close a unit of the state park  
8     system, the department shall notify the county in which the unit is  
9     located of the department's intent to close the unit.  
10    (2) Upon receiving the notice pursuant to paragraph (1), the  
11    county board of supervisors shall have 15 days to respond in  
12    writing to the department on whether it will consider voluntarily  
13    taking over operation and maintenance of the unit of the state park  
14    system that is proposed to be closed. The county may elect to take  
15    over operation and maintenance of the unit if a majority of the  
16    county board of supervisors votes to do so at a properly noticed  
17    public hearing with an opportunity for community stakeholders  
18    to be heard. After approval at the hearing, the county shall provide  
19    written notice to the department within 60 days of the notice  
20    pursuant to paragraph (1) of its intent to take over the operation  
21    and maintenance of a unit of the state park system that is proposed  
22    to be closed.

1 (c) (1) If the board of supervisors declines to take over  
2 operation by failing to respond to the department's notice within  
3 the 15-day period, or if a majority of the board opposes taking  
4 over operation and maintenance of the unit by a vote at the public  
5 hearing, pursuant to paragraph (2) of subdivision (b), the  
6 department shall notify the city in which the unit is located of the  
7 department's intent to close the unit.

8 (2) Upon receiving the notice pursuant to paragraph (1), the  
9 city shall have 30 days to respond in writing to the department on  
10 whether the city plans to consider taking over operation and  
11 maintenance of the unit that is proposed to be closed. The city may  
12 elect to take over operation and maintenance of the unit if a  
13 majority of the city council members votes to do so at a properly  
14 noticed public hearing with an opportunity for community  
15 stakeholders to be heard. After approval at the hearing, the city  
16 shall provide written notice to the department within 60 days of  
17 the notice pursuant to paragraph (1) of its intent to take over the  
18 operation and maintenance of a unit of the state park system that  
19 is proposed to be closed.

20 (d) If a county or city provides written notification of its intent  
21 to take over the operation and maintenance of a unit of the state  
22 park system, pursuant to subdivision (b) or (c), the department  
23 shall enter into an agreement to transfer the full responsibilities  
24 of operating and maintaining the unit to the county or city. The  
25 agreement shall include, but not be limited to, the following  
26 provisions:

27 (1) To reduce the cost impact to a county or city assuming  
28 responsibility for operating and maintaining the park, the county  
29 or city is encouraged and authorized to use existing local  
30 government staff resources as well as contract with volunteer  
31 cooperating associations and utilize volunteers to the extent  
32 possible and appropriate in order to operate and manage the park.  
33 The use of existing local government staff, volunteers, or  
34 cooperating associations shall be exempt from prevailing wage  
35 requirements pursuant to Chapter 1 (commencing with Section  
36 1720) of Part 7 of Division 2 of the Labor Code.

37 (2) In the event the county or city would benefit from retaining  
38 existing department staff to continue performing critical or  
39 specialized functions within the park that cannot be fulfilled by  
40 local government staff, volunteers, or cooperating associations,

1 the county or city may enter into a contract with the department  
2 to provide for the temporary employment of department staff. The  
3 department may provide these employees with a leave of absence  
4 whereby the state's contribution to salary and benefits may be  
5 suspended for the term of the leave. The county or city may enter  
6 into a new contract negotiated with the individual employee.

7 (3) The county or city shall operate and maintain the unit  
8 consistent with the general plan for the unit, or the state park  
9 system, as applicable.

10 (4) Capital improvements or changes in the use of the unit by  
11 the county or city shall be approved by the department.

12 (5) The agreement shall not limit or impair the ability of the  
13 county or city to work collaboratively with other local governments  
14 to operate and manage the unit.

15 (6) The department and the county or city shall agree to the  
16 length of the term for which the county or city will operate and  
17 manage the unit, which shall not be less than a year and not longer  
18 than five years. At the conclusion of the agreement term, the  
19 department and the county or city may enter into another  
20 agreement pursuant to this section.

21 ~~SECTION 1. Section 4512 of the Public Resources Code is~~  
22 ~~amended to read:~~

23 ~~4512. (a) The Legislature finds and declares that the forest~~  
24 ~~resources and timberlands of the state are among the most valuable~~  
25 ~~of the natural resources of the state and that there is great concern~~  
26 ~~throughout the state relating to their utilization, restoration, and~~  
27 ~~protection.~~

28 ~~(b) The Legislature further finds and declares that the forest~~  
29 ~~resources and timberlands of the state furnish high-quality timber,~~  
30 ~~recreational opportunities, and aesthetic enjoyment while providing~~  
31 ~~watershed protection and maintaining fisheries and wildlife.~~

32 ~~(c) The Legislature declares that it is the policy of this state to~~  
33 ~~encourage prudent and responsible forest resource management~~  
34 ~~calculated to serve the public's need for timber and other forest~~  
35 ~~products, while giving consideration to the public's need for~~  
36 ~~watershed protection, fisheries and wildlife, sequestration of carbon~~  
37 ~~dioxide, and recreational opportunities alike in this and future~~  
38 ~~generations.~~

39 ~~(d) It is not the intent of the Legislature by the enactment of this~~  
40 ~~chapter to take private property for public use without payment of~~

- 1 just compensation in violation of the California and United States
- 2 Constitutions.

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